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February 15, 2018

Via ECF

The Honorable Katherine B. Forrest
United States District Court
for the Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007

Re: *United States v. Shulaya et al.* (Avtandil Khurtsidze), 17 Cr. 350 (S.D.N.Y.) (KBF)

Dear Judge Forrest:

I am defense counsel to defendant Avtandil Khurtsidze in the above-referenced case, having been appointed pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A, on December 19, 2017, after his prior attorney withdrew from representing him and no retained counsel entered an appearance on his behalf. I write to ask that this Court appoint co-counsel to represent Mr. Khurtsidze pursuant to § 230.53.20 of Vol. 7 of the Guide to Judiciary Policy, which allows a court to do so in extremely difficult cases where it is “in the interest of justice” to do so.

Since the date of my appointment on Dec. 19, 2017, I have been assiduously preparing Mr. Khurtsidze’s defense. As the Court may recall from the January 16, 2018 conference, production of discovery to me was delayed (first due to prior counsel’s transfer of his file, then because files on the discs he provided to me were corrupted, requiring the government to produce Mr. Khurtsidze’s electronic discovery a second time.) My review of discovery was further delayed because the files provided by the government to me on a new external hard drive (including the video footage pertaining to my client) were password-protected and neither the prosecutors nor I could identify the password, necessitating a further round of providing an external hard drive to the government, having the files downloaded and then returning the hard drive to me. As of Feb. 8, 2017 I have, I believe, all of the discovery that the government has, to date, produced to other defendants. My receipt of those materials, however, is nearly six months behind the timeline of the production to other defense counsel, including those attorneys representing the other defendants placed in Group A for purposes of trial which, pursuant to this Court’s prior orders, is set to begin June 4, 2018.

As this Court noted at the last conference, several other defense attorneys have successfully moved for appointment of associate counsel and / or paralegal assistance under the Criminal Justice Act. The discovery produced by the government in this case is vast – taking up at least 6 TBs of space on external hard drives, with additional discovery produced on the federal USAfX cloud-based system. The charges are similarly vast, as well as serious and complex – a racketeering enterprise operating in multiple states and with ties to the Ukraine, Georgia and the Russian Federation, which involved illegal gambling, extortion, fraud, identity theft and narcotics trafficking, among other things. At this point, given the late start I have had with review of fact discovery and building a

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U.S. v. Khurtsidze – 13 Cr. 350 (S.D.N.Y.) (KBF)
02-15-2017 Letter-Request to Appoint Co-Counsel
p. 2 of 2

client relationship (made more challenging by language and cultural differences) and in anticipation of legal issues that will arise following the prosecution's filing of a racketeering letter and its *Bruton* disclosure, which likely will necessitate complex pre-trial motion practice, without the assistance of co-counsel, the defense will be extremely difficult.

I have spoken with attorney Ken Womble, who joined the Criminal Justice Act panel for the Southern District of New York in January of this year, having previously participated in this District's CJA Mentoring Program. Through the program, Mr. Womble participated in two trials led by his mentoring attorneys, *United States v. Sarmiento*, 13 Cr. 0147 (S.D.N.Y.) (KMW), a tax fraud trial, and *United States v. Pizzaro*, 16 CR 54 (S.D.N.Y.) (GHW), a homicide trial. He also has other substantial trial experience, acting as defense counsel in approximately 20 trials in New York State courts, with ten felony trials as lead or sole counsel. Mr. Womble is available to join as co-counsel here and his schedule would permit him to proceed with a June 4, 2018 trial date. Should this Court appoint Mr. Womble as co-counsel, we will divide the pre-trial work, including discovery review, client visits and motions practice, and would endeavor to avoid any duplicative time prior to trial (limiting such activity, for example, to any necessary joint visits with our client.) That is, while Mr. Khurtsidze would have two CJA attorneys, we would, over a compressed period of time, expect to perform the same total amount of work that other defense counsel likely will have performed over the course of their representation, which primarily began a year prior to the June 4, 2018 trial date. Given the timing of my appointment and our access to discovery, assigning co-counsel at this stage of the case would be commensurate with the Court's prior appointment of associate counsel to assist CJA attorneys whose appointments pre-dated mine by six or more months, and would allow the current schedule to proceed without risk of impairing Mr. Khurtsidze's rights to effective assistance of counsel and to present a meaningful defense.

For all of these reasons, I respectfully ask that this Court find that the appointment of co-counsel in this difficult case is necessary and in the interest of justice, pursuant to § 230.53.20 of Vol. 7 of the Guide to the Judiciary, and appoint Ken Womble as co-counsel to represent Avtandil Khurtsidze in this case.

Respectfully submitted,

/s/

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cc: All Counsel of Record via ECF